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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/979,562	11/14/2001	Chandrika Kasturi	7577	5954

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

MRUK, BRIAN P

ART UNIT

PAPER NUMBER

1751

DATE MAILED: 09/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/979,562

Applicant(s)

KASTURI ET AL

Examiner

Brian P Mruk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Specification

1. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Objections

2. Claims 1, 4-7 and 15-24 are objected to because of the following informalities:

In instant claim 1, the phrase "is a, mild" should be amended to recite, "is a mild" for grammatical purposes.

In instant claim 7, the phrase "less than or equal to 5% or the value" should be amended to recite "less than or equal to 5% of the value" for grammatical purposes.

Instant claims 4-7 and 15-24 are objected to for being dependent upon a claim with the above addressed objection (i.e. claim 1).

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-7, 13, and 15-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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5. In instant claim 1, the group “bond” in the Markush Listing for the variable “L” renders the claim vague and indefinite, since it is unclear what the term “bond” encompasses. The examiner suggests that the group “bond” should be removed from instant claim 1. Appropriate correction and/or clarification is required.

6. In instant claim 7, the examiner notes that the variable “j” is not defined in the claim. This renders the claim vague and indefinite, since it is unclear what values j encompasses. Appropriate correction and/or clarification is required.

7. The phrase “less than or equal to about” in claim 18 renders the claim vague and indefinite. The phrase “less than or equal to about” renders the claim indefinite, since one of ordinary skill in the art would not be able to ascertain the metes and bounds of the phrase “less than or equal to about”. It is unclear what values are encompassed by the phrase “less than or equal to about”. The examiner suggests that this phrase should be changed to either “less than or equal to”. “Claims reciting “less than or equal to about” are invalid for indefiniteness where there was close prior art and there was nothing in the specification, prosecution history, or the prior art to provide any indication as to what range of specific activity is covered by the term about.” **See MPEP 2173.05(b)**. Appropriate correction and/or clarification is required.

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8. Instant claims 2-7, 13 and 15-25 are rejected under 35 U.S.C. 112, second paragraph, for being dependent upon a claim with the above addressed 112 problem (i.e. claims 1 and 18).

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-2, 4-17 and 22-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Jeschke et al, U.S. Patent No. 4,784,789.

Jeschke et al, U.S. Patent No. 4,784,789, discloses an aqueous cleaning composition for cleaning hard surfaces comprising 0.15% by weight of an amphoteric polymer containing 10 moles of dimethylaminoethyl methacrylate and 1 mole of acrylic acid, and various amphoteric, nonionic and anionic surfactants (see col. 4, lines 21-36 & Examples 1-12), per the requirements of the instant claims. Therefore, instant claims 1-2, 4-17 and 22-27 are anticipated by Jeschke et al, U.S. Patent No. 4,784,789.

11. Claims 1-17 and 22-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Aronson et al, EP 013,585.

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Aronson et al, EP 013,585, discloses a light duty, liquid hand dishwashing composition comprising a mixture of anionic and nonionic surfactants, and a copolymer of N-vinylpyrrolidone and dimethylaminoethyl methacrylate, wherein the copolymer has a molecular weight of 40,000-1,500,000 (see abstract & page 2, line 30-page 10, line 11). Specifically, note the Examples in Tables 1-6, which disclose compositions comprising various surfactants and copolymers of N-vinylpyrrolidone and dimethylaminoethyl methacrylate, used in a process for washing dishes by hands, per the requirements of the instant invention. Therefore, instant claims 1-17 and 22-27 are anticipated by Aronson et al, EP 013,585.

12. Claims 1-17 and 22-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Winkler et al, EP 308,190.

Winkler et al, EP 308,190, discloses a mild toilet bar for cleansing skin comprising anionic and amphoteric surfactants (see page 3, lines 51-63), and zwitterionic or cationic copolymers, such as copolymers of dimethylaminoethyl methacrylate and acrylamide (see page 5, line 30-page 7, line 26), per the requirements of the instant invention. Specifically, note the Examples in Tables 2 and 4. Therefore, instant claims 1-17 and 22-27 are anticipated by Winkler et al, EP 308,190.

Double Patenting

13. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11

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F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

14. Claims 1-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 13 of U.S. Patent No.

6,528,477. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant invention and claim 13 of U.S. Patent No. 6,528,477 claim a similar method of cleaning dishware and a similar method of contacting a hand with a composition comprising a polymer suds stabilizer, a surfactant, a diamine and adjunct ingredients (see claim 13 of U.S. Patent No. 6,528,477). Therefore, instant claims 1-27 are an obvious formulation in view of claim 13 of U.S. Patent No. 6,528,477.

15. Claims 1-17 and 22-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 14 of U.S. Patent No. 6,369,012. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant invention and claim 14 of U.S. Patent No. 6,369,012 claim a similar method of cleaning dishware and a similar method of contacting a hand with a composition comprising a polymer suds stabilizer, a

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surfactant, and adjunct ingredients (see claim 14 of U.S. Patent No. 6,369,012).

Therefore, instant claims 1-17 and 22-27 are an obvious formulation in view of claim 14 of U.S. Patent No. 6,369,012.

16. Claims 1-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 14 and 20 of U.S. Patent No. 6,589,926. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant invention and claims 14 and 20 of U.S. Patent No. 6,589,926 claim a similar method of cleaning dishware and a similar method of contacting a hand with a composition comprising a polymer suds stabilizer, a surfactant, a diamine and adjunct ingredients (see claims 14 and 20 of U.S. Patent No. 6,589,926). Therefore, instant claims 1-27 are an obvious formulation in view of claims 14 and 20 of U.S. Patent No. 6,589,926.

17. Claims 1-4, 6-12, 14-17, and 22-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 13 of U.S. Patent No. 6,277,811. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant invention and claims 1 and 13 of U.S. Patent No. 6,277,811 claim a similar method of cleaning dishware and a similar method of contacting a hand with a composition comprising a polymer suds stabilizer, a surfactant, and adjunct ingredients (see claims 1 and 13 of

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U.S. Patent No. 6,277,811). Therefore, instant claims 1-4, 6-12, 14-17 and 22-27 are an obvious formulation in view of claims 1 and 13 of U.S. Patent No. 6,277,811.

18. Claims 1-17 and 22-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 14 of U.S. Patent No. 6,207,631. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant invention and claim 14 of U.S. Patent No. 6,207,631 claim a similar method of cleaning dishware and a similar method of contacting a hand with a composition comprising a polymer suds stabilizer, a surfactant, and adjunct ingredients (see claim 14 of U.S. Patent No. 6,207,631). Therefore, instant claims 1-17 and 22-27 are an obvious formulation in view of claim 14 of U.S. Patent No. 6,207,631.

19. Claims 1-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 3 and 13-14 of U.S. Patent No. 6,521,577. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant invention and claims 3 and 13-14 of U.S. Patent No. 6,521,577 claim a similar method of cleaning dishware and a similar method of contacting a hand with a composition comprising a polymer suds stabilizer, a surfactant, a diamine and adjunct ingredients (see claims 3 and 13-14 of U.S. Patent No. 6,521,577). Therefore, instant claims 1-27 are an obvious formulation in view of claims 3 and 13-14 of U.S. Patent No. 6,521,577.

20. Claims 1-4, 8-12, 15-17, and 22-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 14 of U.S. Patent No. 6,372,708. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant invention and claim 14 of U.S. Patent No. 6,372,708 claim a similar method of cleaning dishware and a similar method of contacting a hand with a composition comprising a polymer suds stabilizer, a surfactant, and adjunct ingredients (see claim 14 of U.S. Patent No. 6,372,708). Therefore, instant claims 1-4, 8-12, 15-17, and 22-27 are an obvious formulation in view of claim 14 of U.S. Patent No. 6,372,708.

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (703) 305-0728. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 (Before Final) and (703) 872-9311 (After Final).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

BM

Brian Mruk
September 9, 2003

Brian P. Mruk

Brian P. Mruk
Patent Examiner
Tech Center 1700